

552(b), most often because it constitutes confidential business information as described in 5 U.S.C. 552(b)(4), and should be withheld from public disclosure.

(b) Information received as part of the procurement process is subject to the Federal Acquisition Regulation, 48 CFR Chapter 1, as well as this part. In any case of conflict between the Federal Acquisition Regulation and this part, the provisions of the Federal Acquisition Regulation prevail.

§ 512.3 Definitions.

Whenever used in this part:

(a) *Administrator* means the Administrator of the National Highway Traffic Safety Administration.

(b) *Chief Counsel* means the Chief Counsel of the National Highway Traffic Safety Administration.

(c) *Confidential business* information means trade secrets or commercial or financial information that is privileged or confidential, as described in 5 U.S.C. 552(b)(4).

(1) A *trade secret* is a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.

(2) Commercial or financial information is considered confidential if it has not been publicly disclosed and:

(i) If the information was required to be submitted and its release is likely to impair the Government's ability to obtain necessary information in the future, or is likely to cause substantial harm to the competitive position of the person from whom the information was obtained; or

(ii) if the information was voluntarily submitted and is the kind of information that is customarily not released to the public by the person from whom it was obtained.

(d) NHTSA means the National Highway Traffic Safety Administration.

(e) "*Substantial competitive harm*" includes "*significant competitive damage*" under Chapter 329 of Title 49 of the United States Code, Automobile Fuel Economy, 49 U.S.C. 32910(c).

Subpart B—Submission Requirements

§ 512.4 When requesting confidentiality, what should I submit?

Any person submitting information to NHTSA, other than information in a class identified in appendix C of this Part, and requesting that the information be withheld from public disclosure pursuant to 5 U.S.C. 552(b) shall submit the following:

(a) The materials for which confidentiality is being requested, in conformance with §§ 512.5, 512.6, and 512.7 of this part;

(b) The Certificate, in the form set out in appendix A to this part;

(c) Supporting information, in conformance with § 512.8; and

(d) Any request for an extension of time, made in accordance with § 512.11.

§ 512.5 How many copies should I submit?

(a) Except as provided for in subsection (c), a person must send the following in hard copy or electronic format to the Chief Counsel when making a claim for confidential treatment covering submitted material:

(1) A complete copy of the submission, and

(2) A copy of the submission containing only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted, and

(3) Either a second complete copy of the submission or, alternatively, those portions of the submission containing the material for which confidential treatment is claimed and any additional information the submitter deems important to the Chief Counsel's consideration of the claim.

(4) If submitted in electronic format, a copy of any special software required to review materials for which confidential treatment is requested and user instructions must also be provided.

(b) A person filing comments to a rulemaking action must additionally submit to the rulemaking docket a copy of the submission containing only the portions for which no claim of confidential treatment is made and from